

SUBCHAPTER 12. PENALTIES, REMEDIES, AND ADMINISTRATIVE HEARING PROCEDURES

7:14B-12.1 General penalty

(a) Failure by any person to comply with any requirement of the State Act or this chapter may result in denial or revocation of an owner's or operator's registration or permit for the tank system; denial, suspension, revocation or refusal to renew a certified individual's or business firm's certification issued pursuant to N.J.A.C. 7:14B-13; and/or the imposition of civil administrative penalties, issuance of administrative compliance orders, imposition of civil penalties, initiation of civil action for injunctive relief, or petitioning the Attorney General to bring a criminal action in accordance with N.J.S.A. 58:10A-10 and N.J.A.C. 7:14-8.

(b) An owner, operator, certified individual or certified business firm, may request an administrative hearing for appealing a penalty issued pursuant to the Underground Storage of Hazardous Substances Act, N.J.S.A. 58:10A-21 et seq. or N.J.A.C. 7:14-8 by meeting the requirements of N.J.A.C. 7:14-8.4.

7:14B-12.2 Procedures for requesting hearings after denial or revocation of registration, permits, certifications for individuals and business firms, and denial of ordinance adoption

(a) Within 30 calendar days from receipt of notification from the Department denying or revoking a permit, registration, or a certification of an individual or business firm issued pursuant to N.J.A.C. 7:14B-13 or denying an ordinance adoption, issued pursuant to N.J.A.C. 7:14B-11, the registrant, permittee, certificant or political subdivision, may request an adjudicatory hearing to contest such action by submitting a written request to the Office of Legal Affairs, ATTENTION: Adjudicatory Hearing Requests, Department of Environmental Protection and Energy, PO Box 402, Trenton, New Jersey, 08625-0402, which shall include the following information:

NOTICE: This is an unofficial copy of the rule with changes underlined. The official rule adoption was published in the New Jersey Register on May 19, 2003. Should there be any discrepancies between this text and the official version of the adoption, the official version will govern.

1. The name, address, and telephone number of the registrant, permittee, certificant, or political subdivision and its authorized representative, if any;

2. The Underground Storage Tank registration number for the facility (if applicable);

3. The registrant's, permittee's, certificant's or political subdivision's factual position on each question alleged to be at issue, its relevance to the Department's decision, specific reference to contested conditions as well as suggested revised or alternative conditions;

4. Information supporting the registrant's, permittee's, certificant's or political subdivision's factual position and proposed conditions and copies of other written documents relied upon to support the request for a hearing;

5. An estimate of the time required for the hearing (in days and/or hours); and

6. A request, if necessary, for a barrier-free hearing location for disabled persons.

(b) A hearing request not received within 30 calendar days after receipt of the denial or revocation by the registrant, permittee, certificant or political subdivision shall be denied by the Department.

(c) If the registrant, permittee, certificant, or political subdivision fails to include all the information required by (a) above, the Department may deny the hearing request.

(d) If it grants the request for a hearing, the Department shall file the request for a hearing with the Office of Administrative Law. The hearing shall be held before an administrative law judge and in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(e) Pending the decision on appeal to the Department and upon a typewritten request supporting the ongoing need to use the tank, the Department may stay the revocation of the permit, for good cause shown, upon such terms and conditions as are deemed proper. The request for stay of revocation of the permit shall be included in the request for hearing.

7:14B-12.3 Liability for compliance

The owner and operator of a facility shall be held jointly and strictly liable for compliance with the provisions of N.J.S.A. 58:10A-21 et seq., and this chapter and subject to penalties pursuant to N.J.S.A. 58:10A-32.

7:14B-12.4 Civil administrative penalties for violations of N.J.A.C. 7:14B-13

(a) Any person who violates the provisions of N.J.A.C. 7:14B-13 is liable to a civil administrative penalty of not more than \$5,000 for the first offense, not more than \$10,000 for the second offense, and \$25,000 for the third and each subsequent offense.

(b) If the violation is of a continuing nature, each day of violation constitutes an additional, separate and distinct offense. No civil administrative penalty shall be levied except subsequent to the notification of the violator by certified mail or personal service. The notice shall include a reference to the section of the statute, regulation, order or permit condition violated; a concise statement of the facts alleged to constitute the violation; a statement of the amount of the civil penalty to be imposed; and a statement of the violator's right to a hearing. The violator shall have 20 calendar days from receipt of notice within which to deliver to the Department a written request for a hearing. Subsequent to the hearing and upon a finding that a violation has occurred, the Department may issue a final order assessing the amount of the penalty. If no hearing is requested, the notice shall become a final order upon the expiration of the 20 day period. Payment of the penalty is due when a final order is issued or when the notice becomes a final order. Agreement to, or payment of a civil administrative penalty shall not be

NOTICE: This is an unofficial copy of the rule with changes underlined. The official rule adoption was published in the New Jersey Register on May 19, 2003. Should there be any discrepancies between this text and the official version of the adoption, the official version will govern.

deemed to affect the availability of any other enforcement provision in connection with the violation for which the penalty is levied.

(c) The Department may compromise and settle any claim for a penalty under this section in such amount as the Department may determine to be appropriate and equitable under all of the circumstances.

(d) Any person who fails to contest or to pay, in whole or in part, a penalty imposed pursuant to this section, or who fails to agree to a payment schedule, within 30 calendar days of the date that the penalty is due and owing, shall be subject to an interest charge on the amount of the penalty from the date that the amount was due and owing. The rate of interest shall be that established by the New Jersey Supreme Court for interest rates on judgments, as set forth in the Rules Governing the Courts of the State of New Jersey.

(e) The penalty provisions of this section shall be in addition to such penalties as may be assessed pursuant to N.J.S.A. 58:10A-32.